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From:

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To:

Cc:

Subject: RE: IVT

We cannot envision a systematic problem with Exam using a closing agreement to resolve any civil tax liabilities, including penalties, for tax periods already covered by federal district court's order of restitution in a criminal tax case. The Service's determination of civil tax liabilities and penalties for a tax period is separate and distinct from a court's order of restitution. Please note, however, that the use of a closing agreement for those tax periods will have no bearing or effect on the Service's required assessment under section 6201(a)(4)(A) of an amount ordered as restitution. Although not required, it is advisable that the language of the closing agreement make it clear to the taxpayer that the closing agreement has no bearing on the assessment of court ordered restitution under section 6201(a)(4). Also, as you know, the Service will be precluded from collecting in full both the restitution-based assessment and the civil tax liabilities under the closing agreement for the same tax period (i.e., restitution is ordered with respect to the period ending December of 2005, and the closing agreement also covers the tax period ending December of 2005) because that would be double collection for the same tax period.